CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instruments.

33. Every person having by law or consent of parties authority to receive evidence, and

every person in charge of a public office except an officer of Police,

before whom any instrument chargeable in his opinion with duty is produced or comes, in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed:

Provided that nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound any instrument coming before him in the course of any proceeding other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates's Act.

Provided also that, in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

The Local Government may, from time to time, in cases of doubt, determine who shall be deemed to be, for the purposes of this section, persons in charge of public offices.

such instrument is duly stamped.

Provided that—

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1st, any such instrument not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion,

Instruments admissible on payment of duty and penalty,

2nd, nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrate's Act;

and in certain criminal proceedings.

3rd, when an instrument has been admitted in evidence, such admission shall not, except as provided in section fifty, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of instrument not to be questioned.

35. When the person impounding an instrument under section thirty-three has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section thirty-four, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing stating the amount of the duty and penalty levied in respe

Instruments impounded, how dealt with.

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

Instruments chargeable with duty.

5. Subject to the exemptions contained in the second schedule, the following instruments shall be chargeable with duty of the amount indicated in the first schedule as the proper duty therefor respectively, that is to say—

(*a*) every instrument mentioned in the first schedule, which, not having been previously executed by any person, is executed in British India on or after the first day of April, 1879;

(*b*) every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment or endorsed, transferred or otherwise negotiated, in British India; and

(*c*) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in the first schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India.

Several instruments used in single transactions.

6. Where, in the case of any sale, lease, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed for the conveyance, lease, mortgage or settlement in the first schedule, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

The parties may determine for themselves which of the instruments so employed shall, for the purposes of this section, be deemed to be the principal instrument.

Instruments relating to several distinct matters.

7. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments

each comprising or relating to one of such matters, wou
chargeable under this Act.

Subject to the provisions of the first clause of thi
tion, an instrument so framed
come within two or more of th
scriptions in the first schedule
where the duties chargeable
under are different, be chargeable only with the high
such duties; but nothing herein contained shall
chargeable with duty exceeding one rupee a counterp
duplicate of any instrument chargeable with duty a
respect of which the proper duty has been paid.

Instruments coming within several descriptions in schedule 1.

8. The Governor General in Council may, by
published in the *Gazette of Indi*

Power to reduce or remit duty.

(*a*) reduce or remit, whether prospectively or
spectively in the whole or any part of British Indi
duties with which any instruments or any particular c
instruments or any of the instruments belonging t
class, or any instruments when executed by or in fa
any particular class of persons, or by or in favour
members of such class, are chargeable, and

(*b*) cancel or vary such order to the extent
powers hereby given.

B.—Of Stamps and the Mode of using them.

9. Except as otherwise expressly provided in this Act,
all duties with which any instruments
are chargeable shall be paid, and such
payment shall be indicated on such instruments, by means
of stamps—

Duties how to be paid.

(*a*) according to the provisions herein contained, or

(*b*) when no such provision is applicable thereto—as the Governor General in Council may by rule direct.

The rules made under this section may, among other matters, regulate—

(1) in the case of each kind of instrument—the description of stamps which may be used,

(2) in the case of instruments stamped with impressed stamps—the number of stamps which may be used,

(9) "Conveyance" means any instrument by which property (whether movable or immovable) is transferred on sale:

"nveyance."

(10) "Duly stamped," as applied to an instrument, means stamped, or written upon paper bearing an impressed stamp, in accordance with the law in force in British India when such instrument was executed or first executed:

"ly stamped."

(11) "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue authority:

"trument of partition."

(12) "Lease" means a lease of immovable property and includes also—

"ase."

(a) a patta,

(b) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for, immovable property,

(c) any instruments by which tolls of any description are levied, and

(d) any writing on an application for a lease intended to signify that the application is granted:

(13) "Mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favor of another, a right over specified property:

"Mortgage-deed."

(14) "Paper" includes vellum, parchment or any other material on which an instrument may be written:

"Paper."

(15) "Policy of insurance" means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event:

"Policy of insurance."

It includes a life-policy:

(16) "Power-of-attorney" means any instrument chargeable with a fee under the relating to Court-fees for the time being in force) empowering a specified person to act instead of the person executing it:

"Power-of-attorney."

(17) "Receipt" means any note, memorandum, writing or advertisement whereby money or any bill of exchange, cheque or promissory note is acknowledged to have been received whereby any other movable property is acknowledged to have been received in satisfaction of a debt, or whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or which specifies or imports any such acknowledgment, whether the same is or is not signed with the name of any person:

"Receipt".

(18) "Schedule" means a schedule to this Act annexed:

"Schedule."

(19) "Settlement" means any non-testamentary disposition in writing, of movable or immovable property made—

"Settlement."

(*a*) in consideration of marriage,

(*b*) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or

(*c*) for any religious or charitable purpose:

It includes an agreement in writing to make such a disposition:

(20) "Vessel" means anything made for the conveyance by water of human beings or property:

"Vessel."

(21) "Written" and "Writing" include every mode in which words or figures can be expressed upon paper.

"Written," "Writing."

4. The schedules and everything therein contained shall be read and construed as part of this Act.

Schedules to be read as part of Act

(*c*) in the case of a conveyance—by the grantee: in case of a lease or agreement to lease—by the lessee or nded lessee:

(*d*) in the case of a counterpart of lease—by the lessor;

(*e*) in the case of an instrument of partition—by the ties thereto in proportion to their respective shares in the perty comprised therein, or when the partition is made in cution of an order passed by a Revenue Authority, in such portion as such authority directs:

(*f*). in the case of an instrument of exchange—by the ies in equal shares; and

(*g*) in the case of a certificate of sale—by the purchaser he property to which such certificate relates.

CHAPTER III.

Adjudication as to Stamps.

30. When any instrument, whether executed or not, and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the ion of that officer as to the duty (if any) with which it is geable, and pays a fee of such amount (not exceeding five es and not less than eight annas) as the Collector may in case direct, the Collector shall determine the duty (if with which, in his judgment, the instrument is chargeable:

Adjudication as to proper stamp.

and may for that purpose require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Collector may call for abstract and evidence.

Provided that no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an en-

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quiry as to the duty with which the instrument to whic
relates is chargeable; and every person by whom any s
evidence is furnished shall on payment of the full duty
which the instrument to which it relates is chargeable, be
lieve from any penalty he may have incurred under this
by reason of the omission to state truly in such instrum
any of the facts or circumstances aforesaid.

Certificate by Collector.

31. When an instrument brought to the Collector u
section thirty is in his opinion one
description chargeable with duty,

(*a*) the Collector determines that it is already f
stamped, or

(*b*) the duty determined by the Collector under sec
thirty, or such a sum as, with the duty already paid in resp
of the instrument, is equal to the duty so determined,
been paid,

the Collector shall certify by endorsement on such inst
ment that the full duty (stating the amount) with whic
is chargeable has been paid.

When such instrument is in his opinion not charge
with duty, the Collector shall certify in manner aforesaid
such instrument is not so chargeable.

Any instrument upon which an endorsement has b
made under this section shall be deemed to be duly sa m
or not chargeable with duty, as the case may be; and
chargeable with duty, shall be receivable in evidence or
otherwise, and may be acted upon and registered as if it had
been originally duly stamped:

Noting in this section shall authorize the Collector to endorse—

any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution (as the case may be);

any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India; or

any instrument chargeable with the duty of one anna, or any bill of exchange or promissory note, when brought to

(*c*) where the sum is payable for an indefinite time minable with any life in being at the date of such instrunt or conveyance—the total amount which will or may be vable as aforesaid during the period of twelve years next er the date of such instrument or conveyance.

tamp where value of ect-matter is indeterate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before this Act comes into force) could not have n, ascertained, at the date of its execution or first cution, nothing shall be claimable under such instrut, more than the highest amount or value for which, if ed in an instrument of the same description, the stamp ually used would, at the date of such execution, have been icient.

cts affecting duty set forth on instru-

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set h therein.

rection as to duty e of certain convey-

28. (*a*) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned such manner as the parties think fit, so that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(*b*) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(*c*) Where a person having contracted for the purchase of any property, but not having obtained a conveyance there-

of, contracts to sell the same to any other person, and
property is in consequence conveyed immediately to the
purchaser, the conveyance shall be chargeable with
valorem duty in respect of the consideration for the sal
he original purchaser to the sub-purchaser.

(*d*) Where a person having contracted for the
chase of any property, but not having obtained a convey
thereof, contracts to sell the whole, or any part, there
any other person or persons, and the property is in
sequence conveyed by the original seller to diffrent pe
in parts, the conveyance of each part sold to a sub-purc
shall be chargeable with *ad valorem* duty in respect on
the consideration paid by such sub-purchaser, without re
to the amount or value of the original consideration, an
conveyance of the residue (if any) of such property t
original purchaser shall be chargeable with *ad valorem*
in respect only of the excess of the original consider
over the aggregate of the consideration paid by the
purchasers :

Provided that the duty on such last mentioned co
ance shall in no case be less than one rupee.

(*e*) Where a sub-purchaser takes an actual conve
of the interest of the person immediately selling to him,
is chargeable with *ad valorem* duty in respect of the
deration paid by him, and is duly stamped accordingly
conveyance to be afterwards made to him of the sam
perty by the original seller shall be chargeable with
equal to that which would be chargeable on a conveyance
the consideration obtained by such original seller ; or where
such duty would exceed five rupess, with a duty of five rupees.

E.—Duty by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

Duties by whom payable.

(*a*) in the case of any instrument described in numbers 2, 11, 13, 14, 15, 24, 28, 29, 30, 44, 53, 54, 55, 57 and 60 (*a*) and (*b*) of the first schedule—by the person drawing, making or executing such instrument :

(*b*) in the case of a policy of insurance—by the insured

Provided that if, at the time any such bill, cheque or
e comes into the hands of any holder thereof in British
lia, the proper adhesive stamp is affixed thereto and can-
led in manner prescribed by section eleven, and such holder
no reason to believe that such stamp was affixed or can-
led otherwise than by the person and at the time required
this Act, such stamp shall, so far as relates to such holder,
deemed to have been duly affixed and cancelled. But
hing contained in this proviso shall relieve any person
m any penalty incurred by him for omitting to affix or
cel a stamp.

D.—Of Valuations for Duty.

19. Where an instrument is chargeable with *ad valorem* duty in respect of an amount expressed in pounds sterling, pounds currency, francs or dollars, such duty shall be calculated on the value of such money the currency of British India according to the following le :—

Conversion of amount ressed in certain cur- cies.

One pound sterling or pound currency is equivalent to rupees :

One hundred francs are equivalent to forty rupees :

One Mexican or China dollar is equivalent to two rupees ur annas.

20. Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any other foreign or colonial cur- such duty shall be calculated on ren such money in the currency the value at rate of exchange on of British India according to the cur the day of the date of the instrument.

Conversion of amou expressed in her foreign currencies.

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

Stock and marketable securities how to be valued.

Effect of statement of rate of exchange or average price.

22. Where an instrument contains a statement current rate of exchange, or aver price, as the case may require, ar stamped in accordance with such st ment, it shall, so far as regards subject-matter of such statement, be presumed, until contrary is proved, to be duly stamped.

Instruments reserving interest.

23. Where interest is expressly made payable by terms of an instrument, such ins ments shall not be chargeable duty higher than that with wh would have been chargeable, had no mention of interest made therein.

How transfer in consideration of debt, or subject to future payment, &c., to be charged.

24. Where any property is transferred to any pe in consideration, wholly or in par any debt due to him, or subject ei certainly or contingently to the ment or transfer of any money or s whether being or constituting a charge or incumbrance the property or not, such debt, money or stock is to be d ed the whole or part, as the case may be, of the consider in respect whereof the transfer is chargeable with *ad va* duty.

Valuation in case of annuity, &c.

25. Where an instrument is executed to secure payment of an annuity, or other payable periodically, or where consideration for a conveyance annuity or other sum payable periodically, the amount se by such instrument, or the consideration for such co ed (as the case may be), shall, for the purposes veyance this Act, be deemed to be—

(*a*) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(*b*) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years next after the date of such instrument or conveyance; and

(3) in the case of hundis—the size of the paper on which ey are written.

Use of adhesive stamps.

10. The following instruments may be stamped with adhesive stamps, namely :—

(*a*) instruments chargeable with the duty of one anna, cept parts of bills of exchange payable otherwise than on mand and drawn in sets ;

(*b*) bills of exchange, cheques and promissory notes awn or made out of British India ;

(*c*) entry as an advocate, vakil or attorney on the roll h High Court ;

(*d*) notarial acts ; and

(*e*) transfers by endorsement of shares of public Companies and Associations.

Cancellation of adhesive stamps.

11. Whoever affixes any adhesive stamp to any instrument chargeable with duty and which has been executed by any person, shall, when affixing such stamp, cancel the same so that it cannot be used again,

and whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

Any instrument bearing an adhesive stamp which has been cancelled so that it cannot be used again shall, as far as such stamp is concerned, be deemed to be unstamped.

How instruments stamped with impressed stamps are to be written.

12. Every instrument written upon paper stamped with an impressed stamp, shall be written in such manner, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

13. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty had already been written : provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced there-

by, or of acknowledging the receipt of any m ney or go
the payment or delivery of which is secured thereby.

Instrument written contrary to Section 12 or 13 deemed unstamped.

14. Every instrument written in contravention of S
tion twelve or thirteen, shall be de
ed to be unstamped.

Denoting duty.

15. Where the duty with which an instrumen
chargeable, or its exemption from
depends in any manner upon the
actually paid in respect of another instrument, the payn
of such last-mentioned duty shall, if application be mad
writing to the Collector for that purpose, and on produ
of both the instruments, be denoted upon such first-men
ed instrument in such manner as the Governor Gener
Council may by rule prescribe.

C.—Of the Time of stamping Instruments.

Instruments executed in British India.

16. All instruments chargeable with duty and exe
by any person in British India sh
stamped before or at the time of
cution.

Instruments other than bills, cheques and notes executed out of British India.

17. Every instrument chargeable with duty exe
only out of British India, and n
ing a bill of exchange, cheque o
missory note, may be stamped
three months after it has been fi
ceived in British India; or, wh
such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, and he shall stamp the same, in such manner as the Governor General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills, cheques and notes drawn out of British India.

18. The first holder in British India of any bill of exchange, cheque or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same: